

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)

4)
5 MUR 6012)

6 JIM RISCH FOR U.S. SENATE, ET AL)

CASE CLOSURE UNDER THE

ENFORCEMENT PRIORITY SYSTEM

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8 **GENERAL COUNSEL'S REPORT**

9 Under the Enforcement Priority System, matters that are low-rated

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11 are forwarded to the Commission with a recommendation for dismissal. The
12 Commission has determined that pursuing low-rated matters compared to other higher rated
13 matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to
14 dismiss these cases.

15 The Office of General Counsel scored MUR 6012 as a low-rated matter. In this
16 matter, the complaint alleges that a number of receipts, disbursements and expenditures
17 disclosed in the Jim Risch for U.S. Senate Committee's ("the Committee") 2008 April
18 Quarterly Report are improper, inaccurate or insufficiently documented. For instance, the
19 complaint asserts that the Committee's use of a credit card constitutes an illegal and
20 improperly reported "open-ended" short term loan. The complaint also alleges that candidate
21 Risch did not have sufficient personal funds to make two loans to the campaign totaling
22 \$380,000, and that one of these loans was improperly assigned in the disclosure report to the
23 general election instead of the primary election. Finally, the complaint alleges that there
24 might be a commingling of funds between the candidate's personal, business and campaign
25 accounts.

26 In its response, the Committee denies that any of the receipts, disbursements or
27 expenditures disclosed in its 2008 April Quarterly Report were improper, inaccurate or

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1 insufficiently documented. The Committee also denies that campaign funds were
2 commingled with those of the candidate, Committee's treasurer, or the candidate's law firm.¹
3 The Committee contends that all of its disbursements were accurately reported in its
4 disclosure report. Further, it states that the personal financial statement the candidate filed
5 with the Secretary of the U.S. Senate demonstrates that he had sufficient funds to make
6 \$380,000 in personal loans to his campaign.

7 The Committee admits that its 2008 April Quarterly Report contains two minor
8 technical errors, which it intends to correct in an amendment.² First, the Committee states
9 that due to a "typographical error," the candidate's loan for \$250,000 was incorrectly
10 designated to the general election instead of the primary election. Second, the Committee
11 admits that it failed to list the purpose of a \$652 disbursement to US Airways. With respect
12 to the latter error, the Committee contends that the purpose of this disbursement was
13 "obvious on its face."

14 Accordingly, because the Committee's reporting violations in this matter appear to be
15 clerical in nature and in furtherance of the Commission's priorities and resources, relative to
16 other matters pending on the Enforcement docket, the Office of General Counsel believes
17 that the Commission should exercise its prosecutorial discretion and dismiss the matter.
18 *See Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, this Office recommends that,
19 because the Committee has not as of yet cured these violations by amending its 2008

¹ The candidate's law firm noted in its response that it does not, as an entity, deliver legal services, but rather each member of the firm bills for services and collects fees separately. Thus, the law firm identified as Rinch, Goss, Inainger, and Gustavel is merely a vendor that provides services for tenant attorneys and other entities on its premises. According to the law firm, the Committee was a tenant in its offices, as was the candidate.

² In its response, the Committee stated it would file an amended report in late June 2008. To date, the Committee has not amended its 2008 April Quarterly Report.

1 April Quarterly Report, the Commission send an admonishment to the Jim Risch for U.S.
2 Senate Committee and R. John Insinger, in his official capacity, as treasurer.

3 **RECOMMENDATION**

4 The Office of General Counsel recommends that the Commission dismiss
5 MUR 6012, admonish the Jim Risch for U.S. Senate Committee and R. John Insinger, in his
6 official capacity, as treasurer, close the file effective two weeks from the date of the
7 Commission vote, and approve the appropriate letters.

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12 9/18/08
13 Date

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33 Attachment:
34 Narrative in MUR 6012